

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

NORMAN DORISE,

Plaintiff,

vs.

ELLA BULLEA CUMMINGS, *et al.*,

Defendants.

Case No. 09-10042

Marianne O. Battani
United States District Judge

Michael Hluchaniuk
United States Magistrate Judge

**REPORT AND RECOMMENDATION
PLAINTIFF'S MOTION TO DISMISS (Dkt. 87) AND
DEFENDANTS' MOTIONS TO DISMISS (Dkt. 77, 78, 83)**

Plaintiff, an inmate currently at the Chippewa Correctional Facility, brings this action under 42 U.S.C. § 1983, claiming violations of his rights under the United States Constitution. (Dkt. 1). Plaintiff alleges that certain City of Detroit police officers used excessive force on him and that other defendants failed to properly train and supervise those officers. *Id.* On May 8, 2009, this case was referred to the undersigned for all pretrial purposes by District Judge Marianne O. Battani. (Dkt. 11).

On May 3, 2010, plaintiff filed a document entitled "Motion to Dismiss Defendant's from Amend Complaint." (Dkt. 87). Plaintiff seeks to voluntarily dismiss defendants James Fitz, Maurice Getteno, John Mozak, Sheldon Lloyd,

Dale Collins, Jo Miller, Melvin Chaney, Michael Jordan, and Ella Cummings from this lawsuit. Each of these defendants have filed motions to dismiss. (Dkt. 77, 78, 83).

Based on the foregoing, the undersigned **RECOMMENDS** that the Court treat plaintiff's motion as a motion for voluntary dismissal under Rule 41, that plaintiff's motion be **GRANTED** and the above referenced defendants be **DISMISSED** from this case, and that defendants' motions to dismiss be **DENIED** as moot.

The parties to this action may object to and seek review of this Report and Recommendation, but are required to file any objections within 14 days of service, as provided for in Federal Rule of Civil Procedure 72(b)(2) and Local Rule 72.1(d). Failure to file specific objections constitutes a waiver of any further right of appeal. *Thomas v. Arn*, 474 U.S. 140 (1985); *Howard v. Sec'y of Health and Human Servs.*, 932 F.2d 505 (6th Cir. 1981). Filing objections that raise some issues but fail to raise others with specificity will not preserve all the objections a party might have to this Report and Recommendation. *Willis v. Sec'y of Health and Human Servs.*, 931 F.2d 390, 401 (6th Cir. 1991); *Smith v. Detroit Fed'n of Teachers Local 231*, 829 F.2d 1370, 1373 (6th Cir. 1987). Pursuant to Local Rule 72.1(d)(2), any objections must be served on this Magistrate Judge.

Any objections must be labeled as “Objection No. 1,” “Objection No. 2,” etc. Any objection must recite precisely the provision of this Report and Recommendation to which it pertains. Not later than 14 days after service of an objection, the opposing party may file a concise response proportionate to the objections in length and complexity. Fed.R.Civ.P. 72(b)(2), Local Rule 72.1(d). The response must specifically address each issue raised in the objections, in the same order, and labeled as “Response to Objection No. 1,” “Response to Objection No. 2,” etc. If the Court determines that any objections are without merit, it may rule without awaiting the response.

Date: May 11, 2010

s/Michael Hluchaniuk
Michael Hluchaniuk
United States Magistrate Judge

CERTIFICATE OF SERVICE

I certify that on May 11, 2010, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system, which will send electronic notification to the following: John A. Schapka and Nellie J.L. Lee, and I certify that I have mailed by United States Postal Service the paper to the following non-ECF participant(s): Norman Dorise, # 653633, KINROSS CORRECTIONAL FACILITY, 16770 S. Watertower Drive, Kincheloe, MI 49788.

s/Tammy Hallwood
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